



INLAND EMPIRE PUBLIC LANDS COUNCIL

TRANSITIONS

Working for Sustainable Forests and Diversified Economies in America's Pacific Northwest

Volume 9, Number 2, March/April 1996

Get The Lead Out!

Pollution, Corporations & Politicians

Poisoned Children
&
Dead Swans

There
Are Better
Choices

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TRANSITIONS

Journal of the IEPLC

The Inland Empire Public Lands Council is a non-profit organization dedicated to the transition of the greater Columbia River ecosystem from resource extraction to long term community and biological sustainability.

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ERRATA: The photograph on page 13 of the Jan-Feb 1996 issue shows the collapse of a road near the Canyon Work Center on the N. Fork of the Clearwater River. [Bill Haskins photo, 12/20/95]

Pollution: Corporations & Politicians

By John Osborn, M.D.

Follow the money--the corporate funding of political campaigns helps explain what Senator Larry Craig (R-ID) wants to do to the Spokane-Coeur d'Alene watershed.

The world's worst heavy-metal pollution is in the Spokane-Coeur d'Alene. Here is some of the nation's worst environmental damage. Clearcuts above heavy metals cause floods to surge across toxic landscapes--again and again. Each flood dumps nutrients and thousands of pounds of lead and other toxic metals into Lake Coeur d'Alene. The Spokane River carries the pollution from Idaho into Washington state.

Senator Craig's two remedies -- his so-called "Forest Health" bill (S.391) and his Coeur d'Alene heavy metals bill (S.1614)-- will only worsen the world-class environmental problem confronting these two states.

What must we do to restore the forests? Hundreds of miles of logging roads need to be ripped; mountain slopes re-contoured. This could be a win-win for forests and forest-dependent communities, restoring forested watersheds while creating jobs for local workers. *But the most important thing we can do is simply let the forest canopies -- now clearcut -- grow back.* You cannot log these forests back to health.

Senator Larry Craig's remedy? Follow the money. Craig is one of Congress's leading recipients of timber industry PAC money. Last year Senators Craig, Gorton, and others succeeded in enacting into law the so-called "salvage rider," which strips citizens of legal recourse to stop illegal timber sales. Larry Craig -- who for years pressed the Forest Service to cut more and more trees in Idaho -- has succeeded in having the government re-issue illegal timber sales that citizens had earlier succeeded in shelving because of watershed damage. National Forests are falling. Corporate tyranny reins.

Craig is moving to cement the "salvage rider" into law with its sequel: Craig's "Forest Health" bill. On our

watersheds, above the toxic wetlands, the overcutting will continue, the toxic floods will continue.

What must we do about the massive heavy metal pollution? Every delay in cleanup means more toxic metals move downstream into wetlands and into Lake Coeur d'Alene, where removal is environmentally dangerous and financially prohibitive. The sheer magnitude of the pollution and cleanup is reflected in projected cleanup costs. The Justice Department sued the mining companies in March, estimating damages and costs at \$600 million. Seattle-based Ridolfi Engineering, under contract with the Coeur d'Alene Tribe, estimated costs at \$1 billion. The value of the minerals taken from the region is estimated at more than one trillion dollars. Who will pay?

To answer this question, follow the money. Craig, Congress's leading recipient of mining industry PAC money, recently unveiled his toxic metals bill for the Coeur d'Alene. Sen. Craig's heavy metals bill:

- Transfers cleanup costs to taxpayers by effectively releasing mining companies from paying full cleanup costs.
- Abolishes the current Tribe-State-Federal government oversight, replacing it with a "commission" weighted heavily towards mining companies and controlled by Idaho's Governor far away in Boise.
- Does not appropriate money for the clean-up, deferring decisions to the unreliable, politicized, corporate-driven yearly budget process in Congress.
- Fails to address the connected problems of overcut forests, floods, and the risk that nutrients will cause heavy metals on the bottom of Lake Coeur d'Alene to be resuspended -- killing the lake and Spokane River.

Follow the money. Congress and the President should take a hard look at the toxic, overcut and unraveling Spokane-Coeur d'Alene watershed as they scrutinize Craig's timber and pollution bills. Leadership is needed, not more pandering to corporate campaign contributors. The stakes are simply too high.

Senator Craig's toxic metals bill

Group finds flaws in basin cleanup proposal

Members of local advisory committee raise questions about extent of cleanup and authority

By Julie Titone

Staff writer

ROSE LAKE, Idaho—Draft legislation aimed at cleaning up mining-related pollution in the Coeur d'Alene River Basin has two big flaws, members of a citizens' group said Wednesday night.

- It doesn't answer the question: How clean is clean?

The citizens advisory committee to the Coeur d'Alene Basin Restoration Project, known as the CAC, wants all of the streams and lakes to be "fishable and swimmable," and most of them to be drinkable with proper treatment. There's no such standard in the bill as written by Sen. Larry Craig, R-Idaho.

- The bill gives too much cleanup authority to the governor of Idaho, and too little say-so to local people who have been working to restore the watershed.

"It seems like the CAC is being pushed aside," said committee member George Brabb.

Brabb represents the Kootenai Environmental Alliance. The committee also includes representatives of the Coeur d'Alene Tribe, landowners, industry and others. They met Wednesday evening with Sandy Patano, of Craig's Coeur d'Alene office, as they've done routinely for a year to help craft legislation.

Craig has promised to introduce a bill that would use dollars from federal taxpayers and mining companies. A month ago, Craig staffers presented a proposal to the citizens' group, and they have been going around the area meeting with interested people.

The bill sets up an advisory commission, then gives the state of Idaho a federal grant to see that its action plan is carried out. The bill doesn't yet put a pricetag on the cleanup.

Craig still hopes to introduce legislation before Christmas, Patano said. She encouraged the public to submit written comments by Monday, or at least let Craig's office know that comments were on their way.

"You're being heard," she assured Brabb and others present Wednesday at the Rose Lake community center.

There were some compliments for the bill.

Dolly Hartman applauded its 10 percent cap on administrative costs. Matt Fein of Hecla Mining Co. liked the way it deals with liability.

"I particularly like the 'innocent landowners' part," said Fein. People who didn't release any heavy metals into the river system are off the hook, he noted.

Others were uncomfortable with the governor's ability, under the bill, to decide when mining companies had met their cleanup obligations.

Other concerns:

- As the bill stands, people downstream in Spokane and Washington state don't have a voice in the cleanup process — even though the metals-contaminated water flows into their landscape, too.

- The bill could be interpreted to take away the Coeur d'Alene Tribe's authority over its reservation.

Spokesman Review

December 7, 1995

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Idaho senators introduce mining cleanup bill

Associated Press

WASHINGTON—A long-awaited revised Coeur d'Alene Basin cleanup bill has been introduced in the U.S. Senate by Idaho's Larry Craig and Dirk Kempthorne.

The Republicans' measure comes on the heels of renewed threats by Attorney General Janet Reno to sue Silver Valley mining companies for a century's pollution.

Gov. Phil Batt and Attorney General Al Lance on March 8 wrote Reno, saying they worried a federal suit would divert funds away from restoration.

Federal agencies and the Coeur d'Alene Tribe have been pushing for the cleanup since 1994.

The bill would erase any lawsuits against ASARCO, Inc., Coeur d'Alene Mines Corp., Sunshine Mining Co., Hecla Mining Co., and any other corporate survivors for damages.

But it would require them to support a cleanup fund run by the U.S. Treasury Department and a 13-member commission representing the Coeur d'Alene Tribe, the affected counties, the mining industry and wildlife regulators.

No price tag is set for the project.

Lewiston Tribune
March 16, 1996

New Bill from Senators Craig and Kempthorne Threatens Coeur d'Alene Cleanup

By Scott Brown

The Coeur d'Alene area made national news recently when the U.S. Department of Justice announced it was filing suit against several of the mining companies responsible for massive toxic heavy metal pollution in the Coeur d'Alene River basin. Named in the suit were the Hecla, Asarco, Coeur d'Alene Mines and Sunshine mining companies. This decision will hopefully pull these companies and the state of Idaho out of denial about the continuing need for responsible, basinwide cleanup of one of the world's worst examples of mining pollution.

In contrast with the federal decision to try and hold mining companies accountable for their damage, Idaho

Republican senators Larry Craig and Dirk Kempthorne have introduced legislation that would limit the financial liability of these same companies while virtually assuring that adequate cleanup won't take place. The bill has four fundamental problems: unbalanced decision making, inadequate funding, no meaningful restoration goals, and liability release for mining companies without assurances that cleanup will be accomplished.

Currently decisions about cleanup in the basin are made jointly by the Coeur d'Alene Tribe, federal health and environmental agencies, and the state of Idaho. Under

Senator Craig is number one in the Senate in financial contributions from mining companies, having received at least \$89,950 through June 1995.

Continued on next page

Continued from previous page

the terms of the proposed legislation, however, the Governor of Idaho gets full control of the reins. The legislation would establish a thirteen member commission, of which, the Governor appoints ten. The Tribe and the federal government, both major landholders in the basin, are relegated to a total of three seats — a far cry from their current power sharing with the state. Additionally, since the state of Idaho has already settled with all the mining companies but Hecla, and has a long history of failing to hold the mining industry accountable for pollution problems, it makes the proposed arrangement that much more indefensible.

Under the bill, the Governor, in conjunction with the Commission, will negotiate agreements which spell out the financial obligations of the mining companies over a period of up to ten years. After meeting these terms, the companies are no longer liable for damages under federal environmental laws. Given the disproportionate influence of the mining industry in Boise (relative to its contribution to the state's economy) it is all but assured that these agreements will prove far too weak and inadequate overall funding for cleanup will result.

The mining industry has long fought basinwide cleanup, hoping to get away with only cleaning up their own lands and other, limited, upriver portions while ignoring the fact that much of the pollution has worked its way into the lower floodplain, the lateral lakes, Lake Coeur d'Alene and the Spokane River. This bill would limit the scope of cleanup to the upper reaches and prove inadequate even there. With no tie-in to measurable cleanup goals, the mining industry will be able to walk away from the problem well before it is adequately addressed. Taxpayers will be left holding the bag for additional cleanup costs.

There have been strong objections raised about this bill by several members of the Citizen's Advisory Committee (CAC), an advisory group to the Coeur d'Alene Basin Restoration Project. The CAC, a bipartisan group with representation from government, industry, conservation groups, the Coeur d'Alene Tribe and private citizens, put specific criteria in front of Senator Craig for inclusion in the bill. Few of these found their way into the legislation introduced in Congress. Liability release was supposed to be used as a carrot to get the maximum contribution possible from the mining companies. Senators Craig and Kempthorne have turned that upside down and offer the weakest cleanup bill imaginable as a vehicle for getting some of their big money campaign contributors off the hook.

From January 1989 through June 1995, Sen. Craig was number one in the Senate in financial contributions from mining companies, having received at least \$89,950. Sen. Kempthorne has accepted \$62,400 from mining political action committees since 1991.

The harm done to the Basin in the form of environmental contamination, wildlife and human health damage from mind-boggling quantities of toxic heavy metals including lead, cadmium, zinc, mercury, arsenic and copper is some of the most

extensively documented natural resource damage in history.

- Elevated lead levels persist in many people in the Kellogg area, home to the 21 square mile Bunker Hill Superfund site, the nation's second largest. For humans and wildlife there is no level of exposure to lead which has been proven to be safe.

- Numerous species including osprey, American kestrels, marsh hawks, tundra and trumpeter swans, ducks, Canada Geese, mink and cutthroat trout have been impacted by heavy metals.

- The annual death toll of tundra swans from lead poisoning is estimated at between 20 to 200.

- Lake Coeur d'Alene has been turned into the world's most beautiful toxic dump containing an estimated 165 billion pounds of contaminated sediments. A 1989 water quality study found many samples with levels of zinc, lead and cadmium which exceeded standards set for the protection of aquatic life.

- Erosion, greatly exacerbated by continued clearcutting, flushes toxic metals daily into Lake Coeur d'Alene. In just one day during flooding in February 1995, over 136,000 pounds of lead entered Lake Coeur d'Alene. This nearly equals the total amount of lead which enters the lake during an entire year at low flow levels.

- High levels of nutrients such as phosphorus and nitrogen from logging, development, agriculture and sewage cause excessive plant growth which depletes oxygen. Under these conditions, the vast quantities of metals in the sediments of Lake Coeur d'Alene can be released into the water, further threatening the area's quality of life and most important economic resource.

- Eating fish caught in the Coeur d'Alene River and the polluted lakes, including Lake Coeur d'Alene, may pose a risk to human health.

The Craig/Kempthorne "Coeur d'Alene River Basin Environmental Restoration Act" would assure that these problems will worsen and that taxpayers will be stuck with the bill for the bulk of cleanup. Please let the senators know that this bill is a bad deal for Idaho. We deserve better.

Senator Larry Craig
U.S. Senate, Washington, D.C. 20510
Coeur d'Alene office ph. 208/667-6130

Senator Dirk Kempthorne
U.S. Senate, Washington, D.C. 20510
Coeur d'Alene office ph. 208/664-5490

Contact the Idaho Conservation League in Coeur d'Alene (208/664-9184) or the Inland Empire Public Lands Council (509/838-4912) for more information.

Idaho Conservation League
Coeur d'Alene
208-664-9184

Follow the Money

LOBBYISTS

Who's writing the laws for Congress?

By George Miller

for The New York Times

When the House passed a revision of the Clean Water Act last week, the vote was hailed as a victory by major industries and trade organizations such as the Chemical Manufacturers Association that had long criticized the anti-pollution law.

Those industries had good reason to cheer. Their paid lobbyists helped write the new bill, which weakens restrictions on companies that put toxins into municipal water supplies.

Since the November election, there has been an unprecedented increase in the influence of lobbyists in drafting legislation and advising congressional leaders.

Despite House rules to the contrary and past censure of Representatives who permitted lobbyists to serve as virtual staff members, in recent weeks there have been dismaying developments.

•Members of the House Resources Subcommittee on Water and Power were stunned to see a lobbyist sitting with Republicans on the dais during a formal hearing focusing on issues of great concern to his client, an association of large Arizona irrigation companies. Only after Democrats objected did the lobbyist leave the dais.

•A lobbyist for Wholesale Distributors, a trade association, used a Capitol Hill office provided by Republicans to work on strategy to promote the product-liability bill that passed the House in March. The bill, a legal reform measure which set caps on damage suits, was heavily supported by manufacturers.

•The chairman of the House Subcommittee on Energy and Power, Dan Schaefer, Republican of Colorado, described his method of protecting the public interest "We go to industry and we ask industry, 'What is it we can do to make your job easier and to help you in this competitive world we have,' rather than writing legislation and having industry comment on what we write."

Lobbyists have always sought to influence legislation, and their right to do so—like that of all citizens—is protected by the Constitution. But it is wrong when their handiwork is largely protected from scrutiny.

The nation did not vote to turn the Congress over to lobbyists so that they could rewrite our health and safety laws, our environmental regulations and our tax laws for the benefit of corporations.

I have introduced a bill to change the House rules to require full disclosure of the role of lobbyists in the drafting of legislation, amendments, reports and other products of the legislative process.

The Lobbyist Disclosure Act would pull Washington's hired guns out from behind closed doors and into public view.

Congress, and the public, should demand its passage.

George Miller, a Democrat, is a representative from California.

Missoulian
August 25, 1995

Lobbyists sink clean-lake bill

Mining industry blasts plan to protect Lake Pend Oreille

By Betsy Z. Russell

Staff Writer

BOISE—Mining industry lobbyists on Monday blasted Sen. Tim Tucker's bid to ensure Lake Pend Oreille is protected from a large mining project upstream in Montana.

At their urging, the Senate Resources & Environment Committee killed Tucker's proposed resolution but the committee agreed to send a letter about the issue.

Tucker said afterward. "It's better than nothing," but he added, "They listen to the mining industry rather than the people."

Tucker, D-Porthill, said people from his district requested the resolution. Sandpoint, East Hope and Bonner County already have passed resolutions calling for ensuring the lake is protected from mining pollution.

ASARCO's proposed Rock Creek mine would operate about 15 miles upstream from Pend Oreille, along the Clark Fork River, the lake's major tributary.

Russell Westerberg, lobbyist for ASARCO, called Tucker's resolution "an affront to the company" and "totally unnecessary."

The resolution would have directed Gov. Phil Batt to meet with Montana Gov. Marc Racicot to ensure the mine's wastes don't push the Clark Fork over Idaho's water quality standards at the state line.

Lobbyist Jack Lyman of the Idaho Mining Association called the resolution inaccurate and inflammatory.

The resolution referred to ASARCO as a New Jersey company, Lyman noted, "seeming to imply somehow that Idaho doesn't welcome investment in this state. I think that kind of language sends the wrong message to non-Idaho mining companies that might be looking to invest in Idaho."

Sen. Mary Lou Reed, D-Coeur d'Alene, defended Tucker. "Sen. Tucker is responding to some real concerns of his constituents."

The committee voted 9-3 to kill the resolution but draft a letter asking the state to help make sure the mine complies with water standards.

Spokesman Review

February 20, 1996

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Idaho lakes council frustrated at its powerlessness

Report cites panel's inability to implement plans to protect lakes

By Julie Titone

Staff writer

COEUR d'ALENE—Six out of eight management plans meant to protect North Idaho lakes have little chance of success, say members of the Clean Lakes Coordinating Council.

The plans lack an agency to carry them out and money to do the work, according to a council report to Gov. Phil Batt.

“We have all these plans that are collecting dust on the shelves, and no one to implement them,” said council staff coordinator Lisa Prochnow.

The Legislature created the six-member volunteer council in 1989 to come up with plans to protect lakes in the five northern counties. But it gave the council no authority and little money. Prochnow, the only staff member, works part-time.

“We’re a toothless kitty,” said council member Bob Hammes. “We have no power to make any regulations and no power to tax.”

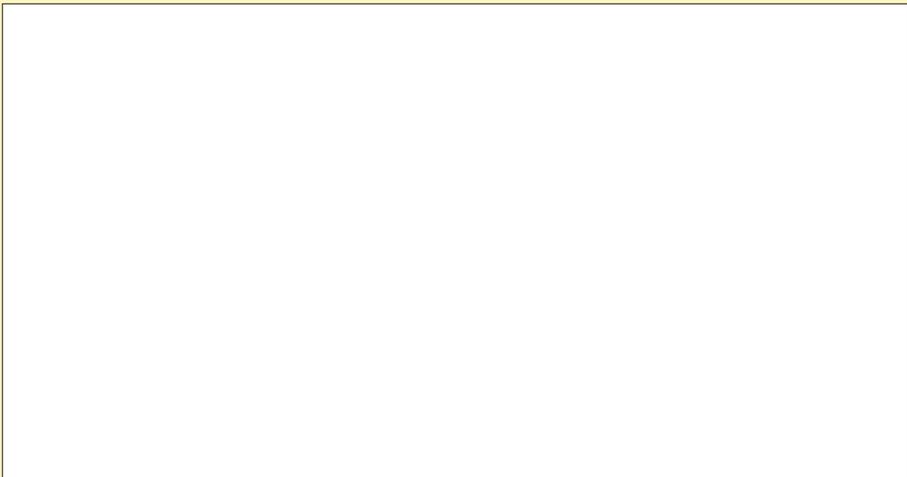
Eight lake management plans have been written. Each calls upon state, federal and local governments to protect the water, primarily from nutrient pollution. They cover home and road-building, logging, stormwater management, boating and other activities.

In the report, council members fret about the future of plans to protect Coeur d’Alene, Spirit, Hauser, Cocolalla, Hayden and Twin Lakes.

Only the plans for Priest Lake and Lake Pend Oreille are likely to succeed, they said.

The Priest Lake plan was mandated by a separate state law, which provided personnel and authority. The Lake Pend Oreille plan has a separate three-state organization to see that it is carried out.

The Clean Lakes Coordinating Council wants the state to come up with tax money to make the plans work, although it doesn’t ask for a specific amount or suggest



Water activists fear for the region's water quality as more homes spring up along shorelines like this one at Arrow Point on Lake Coeur d'Alene.

how it should be spent.

Counties in particular need money to write and enforce ordinances, said member Dr. O.B. Scott of Coeur d’Alene.

The public needs to be better informed about how individuals can protect the lake, according the report. And current laws and regulations need better enforcement, it says.

The report also calls for better coordination among agencies to make the lake plans work. Its praises the Panhandle Health District in particular for protecting water quality, and says other agencies are doing what they can.

Only the state transportation department has turned its back on the lake management plans, according to the council report.

“They have not attempted, to our minds, to do a thing to control runoff and erosion,” said Hammes.

Spokesman Review

January 4, 1996

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Campaign Contributions to Larry Craig (R-ID) from Mining PACS

January 1989 through June 1995

Committee Name	Cycle	Amount
A T Massey Coal Company Inc Pol Assistance Cmte	1990	\$1,000
Amax Inc Concerned Citizens Fund	1990	\$300
Amax Inc Concerned Citizens Fund	1990	\$1,000
Amax Inc Concerned Citizens Fund	1990	\$1,000
Amax Inc Concerned Citizens Fund	1990	\$500
Arch Mineral PAC	1990	\$1,000
Arch Mineral PAC	1990	\$4,000
Asarco Employees PAC	1990	\$300
Asarco Employees PAC	1990	\$300
Asarco Employees PAC	1990	\$1,000
Asarco Employees PAC	1990	\$1,000
Asarco Employees PAC	1992	\$500
Asarco Employees PAC	1994	\$500
Asarco Employees PAC	1996	\$1,000
Battle Mountain Gold PAC	1994	\$250
Battle Mountain Gold PAC	1994	\$200
Bhp-utah International Inc PAC	1990	\$1,000
Bhp-utah International Inc PAC	1996	\$1,000
Brush Wellman Good Government Fund	1994	\$1,000
Citizens for Responsible Government - Employees of The Montana Power Co.	1990	\$500
Cleveland-cliffs Inc PAC	1990	\$500
Cleveland-cliffs Inc PAC	1990	\$300
Coalpac A PAC Of The National Mining Association	1990	\$300
Coalpac A PAC Of The National Mining Association	1990	\$2,000
Coalpac A PAC Of The National Mining Association	1990	\$1,000
Coalpac A PAC Of The National Mining Association	1990	\$1,700
Coalpac A PAC Of The National Mining Association	1994	\$2,000
Coalpac A PAC Of The National Mining Association	1996	\$1,000
Cymax Pac Cyprus Amax Minerals PAC	1990	\$1,000
Cymax Pac Cyprus Amax Minerals PAC	1990	\$2,500
Cymax Pac Cyprus Amax Minerals PAC	1990	\$1,000
Cymax Pac Cyprus Amax Minerals PAC	1990	\$500
Cymax Pac Cyprus Amax Minerals PAC	1990	\$2,500
Cymax Pac Cyprus Amax Minerals PAC	1994	\$2,000
Cymax Pac Cyprus Amax Minerals PAC	1994	\$4,000
Cymax Pac Cyprus Amax Minerals PAC	1996	\$100
Cymax Pac Cyprus Amax Minerals PAC	1996	\$5,000
Exxon Corporation PAC	1990	\$500
Exxon Corporation PAC	1990	\$2,000
Exxon Corporation PAC	1990	\$2,500
Exxon Corporation PAC	1996	\$2,000
First Mississippi Corporation PAC	1990	\$1,000
Fluor Corporation Public Affairs Committee	1990	\$1,000
Fluor Corporation Public Affairs Committee	1996	\$1,000
Freeport-memoran Inc Citizenship Committee	1990	\$500
Freeport-memoran Inc Citizenship Committee	1990	\$1,000
Freeport-memoran Inc Citizenship Committee	1990	\$1,000
Freeport-memoran Inc Citizenship Committee	1994	\$2,000
Freeport-memoran Inc Citizenship Committee	1996	\$2,000
Hecla Mining Company Political Action Fund	1990	\$100
Hecla Mining Company Political Action Fund	1990	\$300
Hecla Mining Company Political Action Fund	1990	\$500
Independent Coal Operators Assoc PAC	1990	\$1,000

Post Register
August 11, 1995

Kaiser Aluminum & Chemical PAC	1990	\$1,000
Kennecott Corporation PAC	1990	\$500
Magma Copper Company Concerned Copper Citizen Fund	1996	\$500
Mapco Employees PAC	1990	\$1,000
Mapco Employees PAC	1990	\$1,000
Mapco Employees PAC	1996	\$1,000
Nerco Minerals PAC	1990	\$250
Nerco Minerals PAC	1990	\$500
Oregon Nerco Employees PAC	1990	\$250
Peabody PAC	1990	\$300
Peabody PAC	1990	\$4,700
Peabody PAC	1990	\$1,000
Peabody PAC	1992	\$500
Peabody PAC	1994	\$1,000
Peabody PAC	1994	\$2,000
Phelps Dodge Employees Fund For Good Government	1990	\$300
Phelps Dodge Employees Fund For Good Government	1990	\$1,000
Phelps Dodge Employees Fund For Good Government	1990	\$1,000
Phelps Dodge Employees Fund For Good Government	1994	\$500
Phelps Dodge Employees Fund For Good Government	1996	\$1,000
Phelps Dodge Employees Fund For Good Government	1996	\$3,000
Reynolds Metals Company Political Participation Program Fund	1990	\$1,000
Reynolds Metals Company Political Participation Program Fund	1994	\$1,000
Reynolds Metals Company Political Participation Program Fund	1996	\$1,500
Reynolds Metals Company Political Participation Program Fund	1996	\$1,000
TOTAL		\$89,950

The Superfund bill

Major polluters want taxpayers to bail them out

The House Commerce Committee supports putting a \$50 million cap on each site, although some will cost many times that amount to clean up

By Brent Walth

of The Oregonian staff

WASHINGTON — Arsenic and lead coat the floor of Idaho's Coeur d'Alene Lake. In New York's Hudson River, cancer-causing chemicals churn amid the silt. In Texas, mercury poisons a bay.

The lingering industrial pollution at these and other sites across America have depleted fisheries and harmed wildlife. Under federal law, corporations responsible for the pollution must pay to restore the landscape.

But companies on the hook for the worst natural resources damage in America hope to convince Congress to shift an estimated \$3 billion in claims to taxpayers.

And Congress is preparing to go along.

The companies have won special provisions in a House bill that caps their liability at \$50 million a site, although some natural resources damages are estimated to be five times, 10 times—even 20 times—greater.

That this Congress is seeking to weaken the nation's environmental laws is nothing new. But few breaks have been so stark—or granted to companies so prominent or powerful.

Congressional records show that only a handful of pollution sites will be affected, but they involve some of the nation's biggest corporations, including Arco, General Electric, Dow Chemical and Westinghouse.

Two of the sites are in the Northwest: Coeur d'Alene Lake and Clark Fork River, Mont., both burdened by wastes from hazardous mining tailings.

The break is contained in the Superfund reauthorization bill, now heading for approval in the

House Commerce Committee later this year or in early 1996.

Industry lobbyists, who have molded the legislation, argue that estimated restoration costs for polluters have been exaggerated. They also argue that Congress, when it passed the Superfund program in 1980, never intended to create an unlimited liability for natural resources damage.

Among those companies seeking a change is the Aluminum Company of America, which faces up to \$250 million in damage claims for mercury pollution of Lavaca Bay, Texas. Alcoa's Kevin McKnight, who has testified before Congress in favor of the liability cap, said the House bill would restore what he believes was Congress' original intent.

"What has started out as a very laudable program has gone awry," McKnight said. "What you see today is a program more concerned about the collection of money damages than restoration."

But foes of the break see it as a special-interest giveaway that, in the end, will tag taxpayers for billions of dollars.

Rep. Elizabeth Furse, D-Ore., a member of the Commerce Committee, attempted to remove the liability cap from the bill. Her amendment to remove the cap failed along a largely party-line vote.

Furse said the effort to shift restoration costs from the responsible companies onto the government is characteristic of a new Congress hostile to environmental regulation.

Continued on page 14

Continued from page 12

“So many of these people have their ideology in place, they are doing the industry lobbyists’ work for them, without the lobbyists even having to be here,” Furse said.

The bill would help cover some restoration costs with \$350 million from trust funds paid by corporate fees. But critics say that amount is dwarfed by the estimated restoration costs of nearly \$3 billion

“Our belief has been the party that’s responsible ought to pay and that a \$50 million cap is arbitrary,” said Douglas Hall, assistant secretary of commerce for oceans and atmosphere. “With this cap, the only alternative with these sites is to leave these massive scars on the landscape or turn to the taxpayers.”

The Superfund program, approved by Congress in 1980, has come under fire for its cost overruns and years of delays in cleaning up polluted sites.

Last year, lawmakers reached a bipartisan agreement on revamping Superfund, but the bill never won final approval. Republicans took over Congress in January and started over on the bill, aided by industry lobbyists. This year’s overall Superfund bill has largely resembled industry-crafted proposals for reinvigorating the program and relieving companies from as much as half of the cleanup costs.

Companies liable for natural resources damages, or those backing the liability cap, have contributed heavily to House Commerce Committee members, according to an analysis of Federal Elections Commission records by *The Oregonian*.

Political action committees have given Commerce Committee members \$553,600 throughout the 1994 elections and the first six months of this year. Seventy-five percent of the contributions to members since the Republican majority took control of Congress went to the GOP.

“It’s fairly clear who stands to gain most because the cap on liabilities only really affects the biggest cases,” said Sarah Chasis, a senior attorney with the Natural Resources Defense Council. “It’s these companies that have been lobbying the hardest.”

The natural resources damage program, which kicks in after initial site cleanup, attempts to undo damage caused by pollution in the area. Most often, the damage has been caused to rivers, lakes and bays into which the wastes have been dumped.

Unlike the cleanup, which the Environmental Protection Agency runs, the natural resources restoration is overseen by other federal agencies, along with states and tribes with jurisdiction over the damaged areas.

No natural resources damage settlement has yet reached \$50 million. About half of the cases settled so far have not required payments from polluters, according to General Accounting Office studies. Settlements in the remaining cases have averaged about \$2.1 million.

But the biggest cases have yet to be settled, and that’s where the cap will benefit polluters.

Oregonian
November 24, 1995

Editorial

A GOP call to stick taxpayers with polluters' bills

It is bad enough that members of Congress' Republican majority want to cut off help for unwed mothers while continuing handouts for such recipients as tobacco companies. But the proposal to start excusing polluters from the cost of cleaning up their own messes would establish a new corporate welfare program that would cost taxpayers plenty.

The nation's Superfund law is far from perfect, but at least it is based on the sound premise that the polluter pays the price for poisoning places like the abandoned Bunker Hill smelter site and surrounding river drainage in Kellogg. And it imposes tougher penalties on those polluters that refuse to acknowledge their responsibility and pay up, by authorizing triple the cost if the government succeeds in proving their responsibility in court.

Ending that policy could have only two consequences: greater cost to taxpayers or less cleanup of polluted places. And since many cleanup projects, like that at Bunker Hill, are already under way, there's little likelihood work would stop completely.

That means taxpayers would get the bill while corporate dumpers of toxic materials, and their insurance companies, would walk.

And depending on which proposal survives the congressional rush to protect polluters, it could be even worse than that. Many good corporate citizens,

including a number of Idaho's mining companies, have agreed to meet their responsibility to help dispose of hazardous waste at Superfund sites. If Congress decides to end the polluter-pays policy, but not to reimburse those companies, the biggest beneficiaries will be companies that have told the government it will have to sue to get a dime in cleanup funds.

Reimbursement for past corporate payments would greatly add to taxpayers' cost, of course, but it would be fairer than letting only the worst scofflaws off the hook.

Least fair of all would be to halt the process that is reclaiming polluted places like Kellogg, a community that is transforming itself from a forsaken welfare haven to a winter and summer recreation center. That transformation depends on completion of the Bunker Hill cleanup project.

Shamefully, most of the cost of that project is already going to federal and state taxpayers, thanks to the government's failure to prevent the smelter's former owners from stripping their company of its assets. What Republican members of Congress propose is to turn every Superfund site into another Bunker Hill, which would convert one disgrace into a national scandal. - J.F.

Lewiston Tribune
August 27, 1995

\$600 million in damages: Justice sues polluters

1907

Fabulous Riches of Coeur D'Alenes

Henry Bush Gives His Impression of North Idaho Country

Cheap Mining is a Feature

Values are more than many mining Camps and Cost of Extraction Less

The uncovering of the fabulous wealth of the Coeur d'Alene mining district has but begun, according to a statement made by Henry Bush of Butte, to the *Missoulian*, who recently returned from an inspection trip through this famous district. Speaking of the exceptional outlook of the district, Mr. Bush has been quoted as saying:

"Little wonder that the inevitable has happened, and the world's mining community has received a severe but an appreciative shock in knowing that irrespective of Montana, and Butte in particular, there exists a wide and extensive district known as the Coeur d'Alenes, which is attracting attention to such an extent that the sweeping power of its future prosperity may be accredited with upsetting the ideas and changing the capital investment of many millions of dollars and diverting it from the famous Butte mines, so well known, and now in favor throughout the known universe.

"The qualified mines of the whole of the Coeur d'Alenes, comprising, as it does, big percentages in copper heretofore unsuspected by the outside world, and yet richer than the general run of the richest copper mines in the universe, in addition the richness of its lead, silver and zinc, must tell. Although no fear of competition has ever struck the great Butte as a copper producer, yet here it lies.

"Exploitation makes the necessity for Butte op-

erators to extend their operations and acquire properties throughout the district. Wallace will in the near future hold the position of being one of the most wide awake and progressive cities in the West, with a great future before it. Investigation shows that the uncovering of the Coeur d'Alenes has but begun, and a wave of prosperity will sweep the district, carrying with it hundreds of millions of outside capital furnished to open up the vast vaults of treasure so much in evidence and so accessible to the investor who applies his funds to the winning of greater wealth by extraction at a moderate cost of all these materials necessary to the world's enhancement.

"Here in the Coeur d'Alenes lies the secret of success. You have here cheap mining facilities, made by nature's own hand, and ground as solid as the devil's home, values in excess of most mining camps and costing less than half to produce the ore, and, again, a lower percentage for treating it.

"The general outlook for mining is exceptional, the vast bodies being opened up in every direction and the assurance of a future now unquestioned must be encouraging to all concerned."

Spokesman Review
January 28, 1907

1929

Up the River of Muck and Into the “Valley of Death”

**Once It Was a Vale of Plenty But Now -
Coeur d’Alene River Valley is desolate;
Party of officials and press representative make exploration trip**

By J.K. Coe

A LAKE cruiser with a party of officials, and a newspaper representative, spent an hour on a silt and slimes bar across the mouth of the Coeur d’ Alene river at Harrison yesterday. The party which included the board of county commissioners of Kootenai county, E.T. Taylor, Kootenai county representative in the legislature, C.O. Sowder, county auditor, and the writer was attempting to proceed up the river to ascertain as far possible what the mill and mine dumpings were doing to the river and valley.

Their exploration very nearly ended before it started, but the revelation at that point was a sufficient answer. The hour in extricating the boat from the mess of mud, slime, and mill refuse, in the midst of a stench that was almost stifling as the propeller churned the accumulation from the bottom of the river was the best evidence of what is actually taking place in Coeur d’Alene river that could ever be found.

THE party proceeding up the lake from Coeur d’Alene found evidence of its pollution several miles down the lake from the mouth of the river. By the time the East point, three miles distant, was reached there was an appreciable coloring to the water. It assumed the color of grayish-yellow glass. The density was increased as the mouth of the river was neared.

There was a clear line of demarcation between the water coming down from the St. Joe river, clear, sparkling and clean, and that emanating from the Coeur d’Alene, muddy, yellowish, and revolting, with a noticeable stench arising there-from. The waters as they mingled, looked like wafting smoke. Gradually the clear water became merged with the slimy water until all was discolored. Then came the shallow water and the silt-filled bar.

AFTER an hour the propeller had washed out a channel and the boat slipped off into the river channel which had shifted from its former bed to the south side of the stream. At Harrison County Commissioner E.O. Cathcart boarded the boat and the trip continued as far as Rose Lake.

The first effect of the polluted waters of the rivers was noticed as the party passed the outlet to Anderson Lake, popular bass and perch lake near Harrison. It was seen to be not an outlet but an inlet. The polluted waters of the river were flowing INTO the lake, where it is said already the fish are succumbing to the filth.

The same conditions exists all along the river.

Continued on next page

1996

The water's always greener on the other side of the state line

Lake Coeur d'Alene looks green, from all the sediment washed into it by flooding and runoff. The Division of Environmental Quality and the Panhandle Health District have warned people with drinking water systems near the lake to treat their water because the sediment includes lead. Drinking untreated water won't necessarily make a person

sick, but the lead poses long-term health risks. Officials expect most of it will sink to the lake bottom, or wash out into the Spokane River. So, the good news is, if you drink the water you won't barf right away, and you probably can't drink enough to risk lead poisoning. Even better news, for Idahoans, is some of it will wash down to Spokane anyway.

Spokesman Review

April 14, 1996

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1929

Continued from previous page

into the lakes, including Blue lake, Thompson lake, Black lake, Swan lake, and Medicine lake.

Other lakes on the way up seemed to be in much the same condition although Rose lake is not now receiving water as its outlet is higher than the river level at present. At other times, however, it is said the water backs up in that lake as it does in practically all of them.

ON every side the once beautiful valley is a picture of desolation. Mile after mile showed a continuation of the same condition. Banks covered with the mill deposit, thousands of acres of what was once some of the most wonderful meadow land in the country now a waste of yellow swamp grasses, covered with muck and slime.

Buildings that were once imposing homes, large hay barns and cattle barns telling of prosperous years, large incomes and happy community life, all are sad reminders of what once was. The buildings have collapsed, windows, doors and fences, are all

wrecks of their former selves, shingles and "shakes" of former days are broken and decayed and moss is growing where once the bright sunlight spread its beam of cheer.

The ranches are silent. Where once hundreds of cattle browsed on the rich and succulent grasses; where the husbandman was busy with the scythe and sickle and harvest was a busy season; where happy life and prosperity reigned, now all is peaceful and quiet. It is a veritable "Valley of Death" in a "Paradise Lost."

(J.K. Coe will continue in another story to appear soon the chronicle of his trip up the wasted river valley. The articles when they are completed should make clear in the minds of every resident of Kootenai county and Northern Idaho the need for cleaning up this ghastly pollution of what was once probably the most beautiful river valley in the entire west.)

Coeur d'Alene Press

December 23, 1929

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, MARCH 22, 1996

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U.S. SUES EIGHT MINING COMPANIES FOR VAST ENVIRONMENTAL DAMAGE TO THE IDAHO PANHANDLE

Coeur d'Alene River Basin Contaminated By Lead, Arsenic & Other Toxic Materials

WASHINGTON, D.C. — The United States sued eight companies today for extensive environmental damage caused by their mining operations in the Coeur d'Alene River Basin in northern Idaho. The cost of restoring the river and the surrounding area is estimated in the hundreds of millions of dollars.

The affected area, stretching over 1,500 square miles, is one of the largest contaminated areas the United States has ever sought to restore.

The complaint, filed in U.S. District Court in Boise, Idaho, alleges that more than 70 million tons of mine wastes have been discharged by the companies into the Coeur d'Alene River and its tributaries.

Through today's action, the United States seeks to restore an area contaminated by more than 100 years of mining and ore processing activities. The complaint alleges that the mining wastes, which have been deposited in the Basin by the companies, continue to seep into the soils and waters in the 1,500 square mile area, seriously injuring or destroying wildlife and vegetation. As a result, birds, fish and other wildlife and their habitats, along with federally managed lands, have been damaged.

The Department brought suit against:

- * ASARCO Inc., based in New York, New York
- * Hecla Mining Company Inc. of Coeur d'Alene, Idaho
- * Sunshine Mining Company Inc. of Boise, Idaho
- * Coeur d'Alene Mines Corporation, a Coeur d'Alene, Idaho-based company
- * and several affiliates of these companies

“Our country's natural resources are a precious legacy that we must restore and manage for the benefit of future generations,” said Lois J. Schiffer, Assistant Attorney General in charge of the Justice Department's Environment and Natural Resources Division. “It is critical that those who damage our environment with years of mining activity — not the American taxpayer — pay the clean up costs.”

Continued on next page

U.S. Sues Mine Companies Over Pollution

By JOHN H. CUSHMAN Jr.

WASHINGTON, March 22—The Justice Department filed suit today demanding that several big mining companies pay for environmental damage across a huge swath of Idaho where toxic wastes from mining and smelting have polluted lakes, streams, groundwater and wetlands over the course of a century.

Government officials said the damages might run into hundreds of millions of dollars, which could make the claim one of the largest ever sought under laws that allow the Government to make polluters pay to restore damaged land.

The suit, filed over the objections of the state's Republican Governor and both United States Sena-

tors, covers 1,500 square miles in the Coeur d'Alene River basin. The region is one of the largest contaminated areas that the Government has ever tried to restore. Studies of the damage has not been completed.

The Justice Department filed suit against Asarco Inc., the Hecla Mining Company, the Sunshine Mining Company, the Coeur d'Alene Mines Corporation and several of their affiliates.

The suit follows the breakdown of negotiations over cleaning up environmental damage to the area from pollution by lead, zinc, cadmium and other contaminants.

Continued on next page

U.S. Sues Eight Mining Companies

Continued from previous page

Bob Davison, the Department of the Interior Deputy Assistant Secretary for Fish and Wildlife and Parks, stated that "this case demonstrates the commitment of the Department of the Interior, in cooperation with the Department of Agriculture and the Coeur d'Alene Tribe, to restore the unique natural resources injured by the release of mining wastes in the Coeur d'Alene Basin."

To determine the costs needed to restore natural resources in the basin, the United States and the Tribe are jointly conducting a damage assessment. The assessment, which is due to be completed in 1997, is a process in which the agencies and the Tribe, with input from the public, collect and analyze scientific information to determine the extent of injuries to natural resources, and develop a plan for restoration of those resources. Through this assessment, the United States has determined that a variety of resources in federal and tribal trusteeship have been, and continue to be, injured and destroyed by the mining wastes in the Basin.

In early 1991, the United States and the Tribe invited the defendants to cooperate in a joint damage assessment effort. It was the hope of the two governments that the joint effort would result in a resolution of the claims without litigation. None of the defendants responded to the governments' requests.

The U.S. Department of Justice filed today's complaint on behalf of the U.S. Department of Agriculture, the U.S. Department of the Interior and the U.S. Environmental Protection Agency. The United States' lawsuit filed under the federal Superfund law and Clean Water Act, is similar to one filed by the Coeur d'Alene Tribe of Idaho, pending in the same court.

Continued from previous page

The complaint, filed today in the United States District Court in Boise, says mining companies have released more than 72 million tons of mine and mill tailings into local waters and along their banks since abundant amounts of silver and other metals were found a century ago.

The toxic materials have drained and leached into soils and sediments, it said.

One area near the town of Kellogg covered by the suit, a seven-by-three-mile spot known as Bunker Hill, was designated as a Superfund site years ago. It is to be cleaned up under that program of dealing with toxic waste dumps.

The lawsuit addresses the much broader question of making the companies pay for what the Government says are widespread damage to the natural environment, including harm to surface water and sediments, groundwater, wildlife habitat, migratory birds, vegetation and the like. Only a part of the damages sought in the suit are within the Superfund site's borders.

That broader damage affects land that is owned by the Federal Government, which allows mining on its property, by Idaho and by the Coeur d'Alene tribe.

For years, local tribal leaders have been pressing to have the damage to the natural resources repaired. The costs are still being assessed in a joint effort involving the Federal Government and the tribe, who by law are considered trustees of the natural resources and are entitled to sue for damages to the environment.

The lawsuit is being pursued at a time of great debate in Washington over filing natural resource damages claims as a way of punishing polluters and making them pay for cleaning up pollution. Proposals by Congressional Republicans to rewrite the Superfund law, for example, would limit the application of this kind of penalty.

And just a few days ago, Senator Larry E. Craig, an Idaho Republican, introduced legislation to govern the Coeur d'Alene cleanup. His proposal, also supported by the state's other Republican Senator, Dirk Kempthorne, would provide Federal funding for the removal of discharges from mines and the improvement of wildlife habitat.

But the bill was strongly criticized by local environmental groups which said it would shift the costs away from the mining companies and onto taxpayers.

"The intent of this bill is not to clean up the basin, but to let mining companies off the hook," said Scott Brown of the Idaho Conservation League.

Governor Philip E. Batt of Idaho, a Republican, asked the Justice Department earlier this month not to sue the companies over the wildlife damages, saying that a lawsuit would only bog down the cleanup.

In a statement, Asarco said that the litigation would probably delay any cleanup.

"In the past, Asarco has been willing to discuss participation in a reasonable overall basin restoration program," the statement said. "The Government now having chosen to proceed in litigation, we will, of course, turn our full attention to defending against what we believe to be invalid claims."

Conservationists said the damage included widespread contamination of wildlife by lead and other heavy metals, including in fish that are eaten by people in the region.

"We hope the filing of this suit will help pull the mining companies and the state of Idaho out of denial," Mr. Brown said.

New York Times
March 23, 1996

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Batt tries to fend off mine waste lawsuit

Truce between feds, industry fails to produce agreement on cleaning up CdA River basin

By Julie Titone

Staff Writer

COEUR d'ALENE — Idaho Gov. Phil Batt is asking the federal government not to sue mining companies over damage to wildlife in the Coeur d'Alene River basin.

Past mining practices contaminated the basin with lead, zinc, cadmium, and other metals. The problem is dramatized each spring when swans die from lead poisoning after stopping to feed along the river.

Last fall, federal and industry lawyers struck a truce of sorts, agreeing to try for an out-of-court agreement over how much industry should pay to clean up the basin. But they failed. The truce will end March 22.

In a March 8 letter to Attorney General Janet Reno, Batt insisted that a lawsuit would be premature.

He argued that:

*Money spent on lawyers wouldn't be available for cleanup.

*The region's few remaining mines would be threatened because of those costs.

*A suit would stifle voluntary cleanup efforts now under way.

*Negotiations were stalled because the federal government won't release the results the studies documenting how much harm as been done to wildlife.

"The United States and the (Coeur d'Alene) Tribe apparently believe the data will support federal and tribal natural resource damage awards in the hundreds of millions of dollars," Batt wrote.

"The state of Idaho is skeptical."

For more than a year, industry representatives have complained that much information was being withheld.

A federal attorney and scientists involved in the Coeur d'Alene Basin Natural Resource Damage Assessment could not be reached for comment Wednesday. But in the past, they have insisted that information is released as soon as it has been reviewed for accuracy.

Holly Houston, spokeswoman for several mining companies, said the governor's letter "could only help us." She noted that Sen. Larry Craig, R-Idaho, plans to introduce federal legislation aimed at resolving the cleanup debate.

However, Scott Brown of the Idaho Conservation League criticized Batt for putting the interests of industry above those of natural resources.

Despite the governor's agreement with industry on key points, the state hasn't taken sides in the cleanup dispute, according to Geoff Harvey of the state Division of Environmental Quality. One reason for that, he said, is that it's been impossible to get federal research findings that show damage to any species but swans.

"It's very hard for the state to take a position when we don't have enough information," he said.

The federal government and the Coeur d'Alene Tribe are trustees for that natural resources of the basin. That means they represent the interests of any non-human victims of the metals contamination.

The basin covers 1,500 square miles in North Idaho, and the fish and wildlife damage may have extended far into Washington because metals have been carried downstream through the Spokane River.

The natural resource issues being debated are separate from the human health concerns that prompted the establishment of the 21-square mile Bunker Hill Superfund site.

Spokesman Review

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Spokesman Review March 15, 1995
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Oregonian
July 20, 1995



Indian Tribe: Defending the Public Interest

Indians, state want \$1 billion for basin cleanup

By Julie Titone

Staff writer

The Coeur d'Alene Indians and state of Idaho are asking Congress to approve a \$1 billion, 21-year cleanup of mining pollution in the Coeur d'Alene River basin.

They want mining companies to pay 25 percent of that, with taxpayers paying the rest.

Rep. Larry LaRocco said Wednesday he will sponsor some version of the legislation written by the tribe and the state attorney general.

The Idaho Democrat said the concept is supported by Speaker of the House Tom Foley, into whose Eastern Washington district Silver Valley mining wastes have flowed for a century.

"I'm excited about getting this proposal," LaRocco said. "Speaker Foley and I are going to be working together on this issue. He's given me the lead because the headwaters of this basin are in my district."

The proposed "Coeur d'Alene Basin and Spokane River Restoration Act of 1994" would set up a federally chartered corporation with full authority over restoration work. Its five-member board would oversee spending of \$200 million the first year, and \$40 million annually for the next 20 years.

The proposal doesn't say how the money would be spent. Nor does it affect the 21-square-mile Bunker Hill Superfund site, where cleanup efforts have dragged on for years.

Mining companies like the concept, but not the price tag, said spokeswoman Holly Houston.

"Hey, if they can go to Congress and get financial help, it would make everybody happy in the basin," said Houston, director of the Coeur d'Alene Basin Mining Information office.

"But 25 percent of a billion amounts to \$250 million, and I think even they know the mining companies don't have that kind of money."

The mining companies have been writing their own version of a cleanup bill. They envision a cost of up to \$200 million, with their share being no more than \$20 million.

"We don't feel there's a billion dollars worth of damage out there," Houston said.

Gov. Cecil Andrus and tribal Chairman Ernie Stensgar sent copies of their proposed bill to LaRocco, and Idaho's two Republican senators, Larry Craig and Dirk Kempthorne.

Andrus and Stensgar contend that it's OK to spend tax money on the cleanup effort for three reasons:

- Much of the pollution was caused by mining companies long since gone;
- the country as a whole benefited from the minerals and should assist in the cleanup;
- local involvement and control creates superior, long-term results.

The corporation they envision would oversee restoration work from the headwaters of the Coeur d'Alene River to where the Spokane River flows into the Columbia River.

Each corporation board member would be appointed by a separate party: the Coeur d'Alene Tribe, state of Idaho, State Natural Resource Trustees, the secretaries of Agriculture and Interior (jointly), and the Environmental Protection Agency director.

"We're really breaking new ground here in terms of relationships between tribes and the federal government," said tribal spokesman Bob Bostwick.

Spokane environmental activist John Osborn would like to see a sixth board member, appointed by Washington's governor.

But he likes the idea of a unified cleanup effort.

"The heavy metal contamination is so enormous, and the efforts to date so unsatisfactory, that this solution is one Congress should really look at," said Osborn, coordinator of the Inland Empire Public Lands Council.

There's not much time to get the bill through this session of Congress, LaRocco acknowledged.

An alternative, he said, would be adding a Coeur d'Alene Basin cleanup amendment to the Clean Water Act, which he said has a 50 percent chance of being reauthorized this year.

Spokesman Review

July 21, 1994

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Tribe's Lake CdA suit reaches high court

By Rich Roesler

Staff writer

COEUR d'ALENE—More than four years after the Coeur d'Alene Indians filed a lawsuit to claim Lake Coeur d'Alene, the U.S. Supreme Court agreed Monday to hear elements of the case.

Arguments are expected to start in October.

Even if the Supreme Court agrees with the tribe, however, the Coeur d'Alenes would not gain possession of the lake immediately. At issue now is who the tribe should sue.

Idaho claims it gained ownership of the lake—and the rest of the state's lakes and rivers—when Idaho became a state in 1890.

But the tribe, which has existed in the area for centuries, says it never ceded the lake to the United States. The southern third of the lake lies within reservation boundaries, set in 1873.

In 1991, the tribe sued the state for ownership of the entire lake, plus sections of the Coeur d'Alene and St. Joe rivers. But the 11th Amendment of the Constitution prohibits private parties from suing states in federal court.

To skirt that roadblock, an appeals court ruled that the tribe can sue members of the Idaho Land Board. The Land Board, which includes the governor and attorney general, oversees management of Idaho's lakes and streams.

The Supreme Court will reconsider whether the tribe can, in fact, sue Land Board members.

"It gives us a second shot," said Dean Heyl, legal communications coordinator in the Idaho attorney general's office.

Nonetheless, the tribe hailed the Supreme Court's decision as a positive step.

"Finally, it's going to be heard after all these years," said Coeur d'Alene Chairman Ernie Stensgar. "I'm looking forward to a fair and just ruling."

Different courts have offered different views on the merits of the case. The late U.S. District Judge Harold Ryan took a dim view of the tribe's side. The 9th U.S. Circuit Court of Appeals, however, subsequently opined that "the tribe has an arguable claim to ownership of the property at issue."

The tribe first claimed ownership of the lake in the early 1970s during a licensing hearing for the power plant at the Post Falls dam.

The Federal Energy Regulatory Commission decided that the tribe appeared to own the southern third of the lake. A 15-year sea of paperwork ensued, ending in the late 1980s when the commission reversed its earlier decision.

The tribe then asked the state to negotiate over ownership of the lake, and eventually filed suit.

The U.S. Justice Department also has filed suit claiming the lake on behalf of the Coeur d'Alenes. That 2-year-old suit seeks the southern third of the lake and part of the St. Joe River. It also maintains that the tribe deserves fees for all docks, boat ramps, and other structures on the southern third of the lake. The case is scheduled for trial in U.S. District Court in December 1997.

The tribe has long said it wants ownership of the lake in order to speed cleanup of contamination from a century of Silver Valley mining wastes. The metals leach downstream and settle in the lake bottom.

Stensgar said Monday that the tribe, if it eventually wins the case, wouldn't lock up the popular recreation lake.

"No one's going to be run off the lake. No businesses are going to be shut down," he said. "We'd certainly listen to everyone."

Spokesman Review

April 16, 1996

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Editorial

Why does Land Board cling to poisoned lake?

During the years it dumped poisons into the Coeur d'Alene River, the Bunker Hill Co. maintained a "dead horse fund," figuring it was cheaper to pay downstream residents off for the loss of their animals than to clean up the company's mining and smelting operations.

Today, the state of Idaho slips toward a lawsuit with the Coeur d'Alene Tribe over ownership of the lake the river feeds, an action that promises to continue the delay in cleaning up the heavy metals that have accumulated for decades.

What makes the Idaho Land Board's reluctance to negotiate with an Indian tribe that wants to get the cleanup started any better than Bunker Hill's purchase of valuable time?

That question is all the more pressing in light of Tuesday's report from a government scientist that enough mine wastes have collected to kill nearly all organisms living near the bottom of two-thirds of the lake.

"That is not good," Paul Woods of the U.S. Geological Survey told members of the Spokane River Association of his findings.

Neither is the state's record in preventing industry from having its way with the waters originating in the mining district of Shoshone County. And now that the poisons mining companies dumped into the river have settled in the northern part of a recreational lake,

the tribe is asserting what it and the Interior Department say is its historic claim to the lake that bears its name.

If the tribe were doing that to make a quick buck, or even a slow one, that would be one thing. But the tribe insists it wants to take advantage of federal money available to it for the cleanup.

The state no longer has access to that kind of money, as if it ever expressed an interest in doing what the tribe proposes in the first place. But there are those who do have an interest in denying the tribe's claim- primarily the corporations which contribute to political campaigns of Land Board members and whose earnings are dependent on use of the lake's water.

From the surface, that water looks pure and clear. But as Woods' study reveals, conditions get murkier the farther down you go.

As members of the Land Board - Gov. Cecil Andrus, Attorney General Larry EchoHawk, Auditor J.D. Williams, Secretary of State Pete Cenarrusa and school Superintendent Jerry Evans - decide whether to negotiate with or to continue to stonewall the tribe, they should make sure the same isn't true of their motives. - J.F.

Lewiston Tribune
September 21, 1991

South Fork water deadly to cutthroat

Preliminary findings of Coeur d'Alene Basin study met with skepticism by mining industry

By Julie Titone
Staff writer

COEUR d'ALENE—Take 10 cutthroat trout. Put them in a tank containing water from the South Fork of the Coeur d'Alene River.

The fish will be dead in two days. That's true even if only 15 percent of the water in the tank is from the South Fork, which is contaminated with mining-related metals.

That is among the first findings to come out of the Coeur d'Alene Basin Natural Resource Damage Assessment. The test results are being greeted with skepticism by the mining industry, and frustration among interested area residents.

"While the information that's being handed out is more than welcome, we still have a long way to go," said Mike Schlepp, chairman of the citizens' committee concerned with restoration of the river basin.

Mike Fish, another committee member, compared the sketchy information released so far to "an outline without the chapters."

The damage assessment won't be complete for another year. It is a huge group of studies aimed at figuring out how much historic mining pollution continues to harm fish and wildlife, and what should be done to clean it up.

The federal government will use the information to present a cleanup bill to mining companies—in court, if necessary.

Industry spokeswoman Holly Houston questioned the validity of the test results.

For example, she said, it makes no sense that trout died in laboratory tanks when researchers found cutthroat living in the South Fork, source of the water.

"The laboratory data doesn't really jibe with the real world here," said Houston, executive director of the Mining Information office.

Fish might be surviving in the river because they can move in and out of the worst contamination, said Dan Audet of the U.S. Fish and Wildlife Service. He is field manager for the assessment project.

Fish can travel into sections of the South Fork containing less zinc, which is especially harmful to fish. Or they can turn the corner into the North Fork of the Coeur d'Alene.

When fish in the lab were put in water from the North Fork, they all survived.

The laboratory study was done after researchers dangled boxes containing trout into the two rivers. The fish in the South Fork boxes kept dying, Audet said. The experiment was moved to the more easily controlled environment of the lab.

Study results are being released as soon as they are complete, federal officials said. One big question remaining to be answered is how many waterfowl are being harmed when they eat metals-tainted vegetation. Swans that die from swallowing lead are the best-known wildlife casualties of the mining pollution.

Results are being released as they became available because of high public interest in the issues.

Among other findings announced this month:

- Trout populations are lowest near the biggest sources of metals, especially places where mine tailings were piled. There are few fish, and no native cutthroat, in the stretch of river that flows past the Bunker Hill smelter site at Kellogg.

A federal Superfund cleanup is under way at the smelter and surrounding 21 square miles. The Natural Resource Damage Assessment is required by the wildlife counterpart of the Superfund law, which focuses on human health.

- Levels of zinc found in the water were up to 200 times higher than federal standards allow for the protection of cold water fish.

The worst spots were below Canyon Creek and Nine Mile Creek. In the main Coeur d'Alene River, the zinc levels were up to 130 times higher than the standard; in Lake Coeur d'Alene, up to 51 times higher.

- There is a wide range of lead and zinc levels in the flood plain of the Coeur d'Alene River from Smelterville to Harrison. Of 187 soil samples, 52 percent had more than 1,500 parts per million of lead, the metal that is killing the swans.

No "safe" level of metals has been set for animals. However, the federal scientists said, upcoming study results should show how and where wildlife is being affected by the contamination.

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Lead a swan song for many birds

Heavy metal contamination affects many types of CdA basin waterfowl

By Julie Titone

Staff writer

COEUR d'ALENE—Dead swans have come to symbolize metals contamination in the Coeur d'Alene River basin, but they aren't the only birds being poisoned.

Canvasback, redhead and mallard ducks have also died from swallowing lead, according to 1994 study results released Thursday by federal scientists.

Studies before 1992 confirmed lead poisoning in tundra swans, trumpeter swans, Canada geese and common golden-eye.

Since the 1950s, eight species of duck and American coot have been found dead in the basin, although the causes of their deaths weren't confirmed, according to Dan Audet of the U.S. Fish and Wildlife Service.

"What we found is lead poisoning in geese, swans, diving ducks and dabbling ducks," he said. "The waterfowl community has different feeding strategies — and all have been affected."

Audet is field manager for the Natural Resource Damage Assessment, which began in 1992. The studies are being done to determine how much fish and wildlife have suffered as a result of historic mining practices that flooded the river system with lead, zinc and other metals.

Mine tailings line the riverbanks and bottoms, continually washing into the water. Swans eat lead when they reach with their long necks for underwater plants in adjacent lakes. They swallow soil in the process.

The big, white birds are relatively easy to find, Audet said, so people are more aware of their deaths.

But geese, which feed on shoreline grasses as well as underwater plants, are also being poisoned, he said.

The same goes for ducks that dive for plants sprouting on lake bottoms, and ducks whose necks won't reach as far underwater as swans.

The scientific summaries released Thursday give a glimpse of the legal case that federal agencies are building against mining companies. They filed suit last week to get the companies to pay for cleanup.

Unfortunately, said an industry representative, the summaries are just that—incomplete and interpreted information, not detailed scientific results.

Holly Houston, executive director of the Mining Information Office, also said the variety of birds dying from lead poisoning wouldn't make a significant difference to industry's cleanup approach.

Tainted soil found throughout the flood plain

The public information update released Thursday covers a variety of topics from studies of the Coeur d'Alene River basin. Among information in the 18-page summary:

□ Contaminated soil was found at 15 of 18 places checked in the flood plain. Those 15 contained high concentrations of lead, zinc, cadmium and other hazardous substances. The tainted soil ranged from 3 inches to more than 7.5 feet near Rose Lake. The average depth was 2 feet.

□ In 1993 and 1994, 327 tons of zinc and 1,000 tons of lead entered Lake Coeur d'Alene. Most of the zinc (83 percent) came from the mining district above Cataldo. Most of the lead (75 percent) was washed down from the flood plain below Cataldo.

□ There are fewer kinds of trees, grasses and shrubs along the Coeur d'Alene River than in comparable areas away from the mining contamination. That would likely affect animals' food supplies.

□ Concentrations of metals in sediment, rock slime, invertebrate animals and fish from the Coeur d'Alene River are much greater than those found in the St. Joe River, the North Fork of the Coeur d'Alene River, and the South Fork of the Coeur d'Alene River upstream of the Canyon Creek mining district.

"Whether their number (of dead birds) is 1 a year or 20 a year, this is a relatively small number compared to the overall huge number of healthy wildlife in the area," Houston said.

The government scientists say they can't find all the birds that die, and are unable to get laboratory information about many bodies they do recover.

According to the information released Thursday:

•From 1992 through 1995, scientists found 261 dead animals, mostly waterfowl, in the Coeur d'Alene River drainage. Many of those had been partially eaten by coyotes and other predators: 120 were in good enough shape for laboratory analysis of their deaths.

Of the 120, 68 had died from lead poisoning without the presence of lead shot in their digestive systems. Five had swallowed lead shot, which hunters can't legally use in the area but may remain from past years, Audet said.

•In comparison, 21 dead birds were recovered in the nearby St. Joe River drainage. Thirteen of those were sent to the lab. None died of lead poisoning, except for the four that ingested lead shot.

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Study: Exposure to lead turns kids into criminals

Los Angeles Times

Exposure to lead in the environment may contribute significantly to criminal behavior, a possibility that might help explain the high rates of crime in America's inner cities, researchers said Tuesday.

A study released today suggests that even nominal doses of lead, well below those associated with poisoning, can lead to anti-social behavior and delinquency in young boys— behavior that foreshadows violent adult criminality.

The study, published in the *Journal of the American Medical Association*, extends a landmark 1990 study, which demonstrated that lead poisoning in childhood is the single most important predictor of criminality among adults. It far outweighed poverty, the absence of a father and other major social factors.

Dr. Herbert L. Needleman and his colleagues at the University of Pittsburgh School of Medicine studied 301 boys from the Pittsburgh inner city. They found that boys with above normal lead values were more aggressive and had higher delinquency scores when evaluated by teachers, parents and, most important, their own self-reports.

These delinquent behaviors, which include bullying, vandalism, setting fires, theft and fighting, are highly predictive of adult criminality, alcoholism and domestic abuse, said psychologist Terrie E. Moffitt of the University of Wisconsin.

"We're not saying that lead is the cause of all the rotten decay in our cities, but it is not unreasonable that it is a part of the picture, perhaps a measurable part," Needleman said.

"This is extremely important for crime and violence research," added criminologist Deborah W. Denno of Fordham University.

The most important sources are lead in soil— deposited over decades by automobiles burning gasoline containing tetraethyl lead as an octane enhancer — and in houses built before 1978. Paint in such houses often contains as much as 50 percent lead and, even though it has been covered by lead-free paints, it still flakes off when doors and windows are opened and closed and furniture rubs against walls. Studies have found that the old houses and contaminated soils of inner cities are by far the highest sources of lead.

The effects of lead were independent of race, Needleman found.

The results suggest that the relatively high incidence of crime in some black communities does not result from a racial predisposition, as some have suggested, but from a phenomenon increasingly known as "environmental racism," Denno said.

Environmental racism, she said, reflects the fact that pollutants, such as lead, tend to be dumped or accumulate in areas where blacks and other minorities reside.

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Don't drink the green water

By Susan Drumheller

COEUR d'ALENE — Lake Coeur d'Alene has been looking a little peaked lately.

That green tinge to its normally blue waters does indicate a slightly sickly lake.

So don't drink lake water unless it's treated.

The February floods in North Idaho washed large amounts of sediment into the lake, causing problems for divers and people who draw water from the lake to drink.

"We have very poor visibility right now," said Eric Rouse, a diver with Tom's Diving Adventures. "Usually, this time of year it's a lot better."

The turbid water was beginning to clear recently when the spring runoff exacerbated the problem.

Much of the sediment is microscopic, slowing the settling process, said Geoff Harvey, senior surface water analyst with Idaho's Department of Environmental Quality.

"What you're seeing is the diffraction of light. It gives you that off-green color," Harvey said.

Some of the clay particles are carrying lead, too.

Tests of water entering drinking water systems along the lake in March showed elevated levels of lead, Harvey said.

"It's the first time we've seen those numbers go to lead levels that exceed the (federal drinking water) criteria," he said. After filtering and treatment, however, the water is suitable for

drinking.

Drinking untreated water won't necessarily make a person sick, but the lead does pose a long-term health risk — especially for children.

Just in case people don't already treat their water, the DEQ and Panhandle Health District are issuing a public health notice to remind them to do so in light of the lead problem.

Some people with individual water systems are finding that the fine sediment is clogging their water filters.

"They're using bottled water," Harvey said.

Even with the larger amounts of lead floating around the lake, Harvey said he doesn't expect much of it to wind up on the beaches.

Most of it will drift to the lake bottom, or wash down the river. Lake Coeur d'Alene has a high turnover of water. Twice a year the water is replaced by new water.

"So it's exporting this stuff and replacing it with cleaner water as we speak," Harvey said.

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